



**Winter 2000 Meeting, Las Vegas, Nevada
February 15-17, 2000**

Executive Summary and Action Items

This Executive Summary represents discussions from the 16th Transportation External Coordination Working Group (TEC/WG) meeting held in Las Vegas, Nevada, February 15-17, 2000. The sessions began with a brief discussion led by the group's DOE co-chairs, Judith A. Holm and James H. Carlson. The two announced this meeting would, for the first time, consist almost exclusively of topic group sessions, with a brief plenary session at the end to discuss the groups' activities and action items. The TEC then adjourned to the topic group sessions and met throughout the afternoon of Tuesday, February 15 and all day on February 16, 2000.

After the topic group sessions were held, the participants reconvened on February 17, 2000 to share their findings and pending action items. Detailed notes were developed from the five topic group sessions: communications, protocols, training/medical training, consolidated grant and tribal issues, as well as a final listing of meeting participants, can be found at the TEC/WG website. Please follow the indicated links beginning at www.ntp.doe.gov.

For specific information regarding TEC/WG issues and future meetings, please contact Ms. Holm at (505) 845-4767 or Mr. Carlson at (202) 586-5321. For logistical issues, please contact Susan Martindale, SAIC, at (301) 353-8319.

Communications Topic Group Summary:

Judith Holm (DOE/NTP) and Martha Crosland (DOE/EM) led the group discussion. The group reviewed its accomplishments since the last meeting, which included developing review procedures for new documents, reviewing new fact sheets and information products, completing a survey and paper on advance notification issues related to local governments, and drafting an emergency public communication procedure and submitting it to the DOE protocol writing group, and other items.

The group discussed the potential for concluding its business and closing down; however, additional areas in which input from the group would be useful were identified. The group will address sunseting after those activities have been completed. Some new action items include reviewing an upcoming National Safety Council brochure on low-level waste and providing input on a website being developed that describes package engineering and testing. The group will also more closely examine issues related to risk

communication and review successes and failures that have occurred in past shipping campaigns with an eye toward developing a summary of “best practices” or “lessons learned.” The group is also reviewing input gained from past environmental impact statements; identifying “hot button” issues related to transportation; developing a listing of key positive messages which can help officials better inform their constituents; and recommend ways to more clearly communicate transportation risks in environmental documentation.

A complete summary of the group’s discussion can be found on the TEC/WG website; please follow the links at www.ntp.doe.gov.

Communications Topic Group Action Items:

1. Participate in review of upcoming National Safety Council brochure on low-level waste (communications topic group).
2. Provide input to packaging and transportation website now under development by Sandia National Laboratories (Holm, Crosland, Niles, Sattler, Espinosa, Hale; with additional review by Senior Executive Transportation Forum and other federal agencies).
3. “Snapshot” survey of risk communication materials including literature on basic principles and application (Bennett, Sarno/Fernald CAB).
4. Research EISs, questions raised by the public in EISs, how they have been answered, and recommend improvements (Bennett).
5. Review successful and unsuccessful transportation communication programs and determine best practices and lessons learned (Helvey, Eidelman,)
6. Identify “hot button” issues through review of outdated NTP fact sheets (Hale, Portner).
7. Review EISs and make recommendations on ways to explain transportation risk more effectively (Helvey, Power, Niles)
8. Develop positive key messages (Niles, Paull and others TBD).

DOE Transportation Protocols Topic Group Summary:

The group discussion was led by Mona Williams (DOE/NTP). The group reviewed five protocols during its sessions; two for the first time and three for the second time. The deadline for submitting new comments was set at March 10. More protocols are being planned for review before the next meeting of the group; in fact, the group may meet separately between now and the next meeting to review a number of drafts (the group did meet in May).

Some recommendations related to the shipment prenotification protocol included; treat all transuranic waste shipments like WIPP shipments; ensure advance notice is received seven or more days in advance of specified shipments; and explore alternate means of prenotification, such as electronic mail. Commenters stressed the shipment planning information protocol should outline the Prospective Shipments Module (PSM) as the key conduit for disseminating information about planned shipping campaigns. They

suggested the PSM be developed annually with quarterly rolling updates as changes occur. In addition, definitions and thresholds such as what constitutes “high volume” shipments are continuing issues.

Discussion about the routing protocol was extensive. Written comments were due March 10; issues related to low-level waste (LLW) garnered the most attention and discussion. Participants suggested looking to guidance promulgated by DOT on non-radioactive hazardous materials routing. Participants noted a continuing difference of opinion on routing and planning for LLW, mostly based on regional differences.

The emergency notification protocol, according to participants, needed to be revised to acknowledge the role of local communities, and to emphasize when in doubt, DOE should notify potentially involved parties. What constitutes an off-normal event also needs to be clarified, they said. Similarly, the emergency response protocol discussion noted the role of local communities needed to be more clearly defined. Unlike other protocols, this one addresses actions to be undertaken by many entities, not just DOE. Public affairs issues related to emergency response will be handled in the public communication protocol.

Several action items included: determining whether an alternate means of communication for advance notification would be acceptable to NRC; release drafts in .pdf format for consistent review; and determine to what extent tribes use a unified command structure.

DOE Transportation Protocols Topic Group Action Items:

- Comments on the routing, emergency notification and emergency response protocols should be provided to DOE (Mona Williams) by March 10.
- Ms. Williams will explore the potential for holding another face-to-face meeting in the May timeframe.
- Ms. Williams will determine whether the PSM can group campaigns by frequency, numbers, or commodities and will report back to the group.
- Mr. Alcock will coordinate with NRC the issue of using electronic notification of jurisdictions needing advance information and will report back to the topic group.
- Mr. Carlson will obtain language from the RW RFP related to routing and provide it to the topic group.
- Future versions of protocols will be provided in .pdf format to ensure consistency in formatting and numbering.
- DOE will provide the above-specified drafts to the group for initial review in April.
- Mr. Dietz will examine whether tribes use the ICS system and will report back to the topic group.

A complete summary of the group’s discussion can be found on the TEC/WG website; please follow the links at www.ntp.doe.gov.

Training Topic Group Summary:

Sixteen Modular Emergency Response for Radiological Emergency Transportation Training (MERRTT) training modules have been completed. A practical exercise/first revision of a drill-in-a-box concept has been completed. A tabletop exercise following the flow of the MERRTT modules; is being integrated in the TEPP training CD. The group also discussed distribution mechanisms for the TEPP training. TEPP coordinators will continue to be used, as will the state points-of-contact, as the primary mechanisms for implementation. Unresolved issues include awareness of the program among small agencies; how to “piggyback” onto other distribution channels; and obtaining resources for small agencies.

The radioactive materials emergency response guide is still under development, and is about eighty percent complete. The topic group generally supports the concept and is reviewing similar products.

The group discussed medical issues extensively. There was some support for a pre-hospital module; the group is reviewing existing programs for content and an initial assessment supports development. The hospital training is to be assessed, and the coroner/medical examiner procedure reviewed. These will be made available through various channels; no module on those aspects will be developed. EMS procedures are also being added to the planning tools. The group also discussed decontamination procedures, and is assessing needs and reviewing options; procedures might be added to Module 13 or to the radioactive materials emergency response guide. Dr. Roger Linnemann also presented information on the medical training for WIPP. Hospital issues included administration/operations, integration of training into hospital functions, clinical evaluation and treatment, and follow-on training.

A complete summary of the group’s discussion can be found on the TEC/WG website; please follow the links at www.ntp.doe.gov.

Training Topic Group Action Items:

1. Develop module for pre-hospital EMS (explore FEMA/self-study options);
2. Complete assessment of hospital emergency room radiological training (discuss with FEMA their prior assessment and results);
3. Add EMS checklist developed as TEPP tool to Module 16 (pg. 4, item 2);
4. Do needs assessment for module on contamination reduction, then draft recommendation for July meeting;
5. Place medical examiner/coroner procedures on web site;
6. Add resource section to CD and web site with hot link to web;
7. Add case studies to Planning Tool web site;
8. Add URL for Tools web site to brochure: www.em.doe.gov/otem;
9. Put MERRTT brochure on CD;
10. Write Network News article on TEPP;
11. Have DOE HQ discuss marketing strategy planning for MERRTT; and
12. Offer CEUs for course material.

DOE Consolidated Grant Topic Group:

The main objective of the topic group discussion was to identify and clarify key issues concerning the proposed consolidated grant.

Ms. Holm noted the group had been formed in December, and two conference calls had been held prior to the Las Vegas meeting. Generally, the participants agreed on desired outcomes; maximizing public health and safety with limited resources is the top priority. Allowable activities under the proposed grant was another area where participants generally agreed; it was suggested the WIPP program be examined and that approach modified if necessary. Issues remaining to be resolved included the process for allocating funds. Some advocated a modification of the current approach taken by WIPP, which involves individual negotiation with tribes, and with states through regional groups. Others advocated a program that would ensure uniform and consistent funding criteria. Much discussion focused on the appropriateness of using a formula approach for determining allocation of funds.

The issue of state permits and fees was also a topic of debate. Some participants noted fees only cover part of the cost of services provided; others suggested DOE might in effect be charged twice for the same activity. Issues specific to tribes also were discussed at length, and focused on tribal sovereignty and the need for individual consultation. Several participants noted any grant proposal should not jeopardize or conflict with the relationships developed by DOE at the regional office level. Tribes' lack of basic infrastructure and resources is also a continuing problem, and participants advocated completing a needs assessment before funding decisions are made.

Outstanding issues that remain include: the background information and concept needs to be better communicated and understood; the timeframe for addressing issues needs to be defined; and there is a need to reconsider the original schedule for drafting a topic group paper.

A complete summary of the group's discussion can be found on the TEC/WG website; please follow the links at www.ntp.doe.gov.

Consolidated Grant Topic Group Action Items:

In general, participants agreed on the need to maintain the dialogue between DOE and TEC/WG members on issues to be worked through before completion of a white paper for the Senior Executive Transportation Forum. The key question to be answered is whether this is the mechanism to achieve the outcomes DOE and states and tribes want. (This question is also being considered internally by DOE.)

The following actions items and issues for further discussion were noted:

1. All participants will go back to their various constituencies to discuss the issues raised in discussions to date;
2. Judith Holm will obtain answers on questions related to the Price Anderson Act and to the issues raised by the Santa Clara Pueblo;
3. Further discussion will be conducted on issues raised, with a view to reaching some accommodation of concerns; and
4. A numbering system will be introduced for all research and discussions papers related to the grant that are available on the web.

Tribal Topic Group Summary:

The group briefly discussed an issue that had been a recurring one in policy discussions—the protection of tribal rights on ceded lands. Participants agreed to help develop a short description of terms such as ceded lands, treaty lands and aboriginal lands to help frame future discussions.

The group also discussed the DOE Indian Policy currently being updated. The third draft is now under development and will be available within the next several weeks. Key definitions of terms such as “consultation” and “trust responsibility” are intended to help give DOE managers a better understanding of how to implement the policy. During the updating process, a call has arisen for development of protocols on which to base true government-to-government relations. Managers will be held accountable for ensuring the new policy is implemented.

The group also discussed a Tribal/State summit held between The State of New Mexico, all the tribes in New Mexico, DOE, FHWA and the BIA. Five topic areas of discussion were developed into six draft agreements. Since the summit was held, one agreement has been signed; the others are being reviewed by the tribal councils. The issues being addressed include transportation infrastructure planning, economic development, land transfers, cooperative planning efforts and safety.

The group discussed DOT’s tribal policy, which had been internally written as DOT guidance for dealing with tribal nations on a government-to-government basis. The policy is a living document, and external comments will be considered. Participants agreed to help disseminate tribal perspectives by participating on other topic groups, and asked more time be devoted for the group to meet in future.

A complete summary of the group’s discussion can be found on the TEC/WG website; please follow the links at www.ntp.doe.gov.

Tribal Issues Topic Group Action Items:

Responsible Party

Action to be Taken

Judith Holm

Provide written response to Santa Clara Pueblo memo of

Kevin Blackwell	February 15 on tribal concerns. Check with the protocols topic group on emergency response issues related to the tribal concerns set out in the February 15 memo from the Pueblo.
Martha Crosland	Explore the idea of putting Tribal Frequently Asked Questions on the EM Web site (in response to issues raised by Santa Clara Pueblo).
J. R. Wilkinson	Provide the topic group with a short definition of ceded lands.
All	Provide NRC with comments on ANPR on Advanced Notification by March 22, 2000.
Wilda Portner	Copy and distribute DOT “Guidance for Conducting Hazardous Materials Flow Surveys” and “United States Hazardous Materials 1997 Economic Census: Transportation 1997 Commodity Flow Survey” document

COMPLETE TOPIC GROUP MEETING SUMMARIES

Communications Topic Group Summary:

(Contact: Patricia Armijo, 505-845-5241, or Martha Crosland, 202-586-5944)

Participants included Nancy Bennett, ATR; Michael Carroll, NWTRB; Martha Crosland, DOE/EM-75; Audrey Eidelman, ECA; Judith Espinosa, ATR; Beth Farrell-Hale, SAIC; Elizabeth Helvey, JK Research Associates; Judith Holm, DOE/NTP-Albuquerque; Preston Kinne, Kootenai Tribe/NTEC; Stephanie Martz, NRC; Elmer Naples, DOE/NR; Ken Niles, WIEB; Phillip Paull, CSG/ERC; Lisa Sattler, CSG/MW; Jack Valencia, Las Cruces, NM; and J.R. Wilkinson, CTUIR/DNR. The topics of discussion included incorporation of topic group comments in the (Modular Emergency Response for Radiological Transportation Training (MERRTT) brochure; the group's accomplishments and current task plan; an update on printed products/information materials; prioritizing future activities, including folding topic group into the protocols group; and consideration of "sunsetting" the topic group.

Chief Bill Ruting (LaGrange, Illinois Fire Department) discussed the MERRTT brochure and comments received by topic group members. Input on the program is still welcome and an offer was made to put it on the web for additional tweaking if anyone is interested in doing so, he said, but the brochure cover could not be changed because of logistical constraints. He provided a little history on the development of the MERRTT program, saying it had input from many emergency response professionals to help ensure the integrity of government-sponsored training.

Ms. Holm reviewed the topic group's accomplishments, which included: developing review procedures; updating transportation fact sheets and information products; completing the local notification survey and white paper; drafting the emergency public communication procedure and submitting it to the protocols writing group; and completing a communication strategy with portions of it now being implemented. Discussions then centered on availability of fact sheets and other materials on the web, and use of ATR as a resource for DOE transportation information, research and other technical assistance.

Ms. Crosland briefed the group about a brochure under development by the National Safety Council concerning low level waste transportation. The brochure will be complete in about six to eight months, she said. Participants expressed an interest in reviewing the brochure before it goes final. Ms. Holm gave an overview of a website under development by Sandia National Laboratories concerning transportation package engineering, testing and regulatory work, and relating these to an accident in the real world. The website is not yet available to the public, she said. Participants stated they would like to be involved in the review of the new site. One participant also suggested other federal agencies, such as NRC or DOT be part of the review.

Discussion then focused on "key messages" for DOE shipping campaigns and on identifying "hot-button" issues which have caused public concern or outrage during past

shipments. Mr. Niles suggested that, as a start in developing key messages, the group look at those messages developed by western states for the WIPP shipments. These messages include:

1. Safety is the first priority;
2. The transportation safety plan is a cooperative effort among corridor states, tribes, local officials and DOE;
3. The transport safety program goes beyond what is required by law;
4. The program is proven; and
5. There is not a shipment on the road that has undergone as much scrutiny by state, tribal and local transportation safety specialists as the WIPP shipments.

Some of these messages are specific to the WIPP shipments, he noted, but when appropriate, also could be used for other DOE shipments.

As far as "hot-button" issues, Mr. Niles gave the example from the West Coast foreign fuels shipments where issues related to cask testing requirements and demonstration tests were not clearly explained. He suggested the NTP fact sheet on cask testing, which was reviewed by this topic group, accurately explains this issue and could be used as a template for all DOE programs in developing their public information materials.

Discussion then ranged over a variety of related topics, including researching past environmental impact statement public comments to identify issues of concern.

There was also discussion on how to better communicate risk. How DOE communicates transportation risk in its environmental impact statements was suggested as one area where the topic group might be able to provide some guidance.

Based on these new tasks identified for the topic group, it was decided the group should not sunset, but should continue its work.

Mr. Naples said he would ensure the topic group is kept abreast of the protocols topic group's activities.

Communication Topic Group Action Items:

1. Participate in review of upcoming National Safety Council Brochure on Low Level Waste (communications topic group).
2. Provide input to packaging and transportation website now under development by Sandia National Laboratories (Holm, Crosland, Niles, Sattler, Espinosa, Hale; with additional review by Senior Executive Transportation Forum and other federal agencies).
3. "Snapshot" survey of risk communication materials including literature on basic principles and application (Bennett, Sarno/Fernald CAB).
4. Research EISs, questions raised by the public in EISs, how they have been answered, and recommend improvements (Bennett).

5. Review successful and unsuccessful transportation communication programs and determine best practices and lessons learned (Helvey, Eidelman,)
6. Identify “hot button” issues through review of outdated NTP fact sheets (Hale, Portner).
7. Review EISs and make recommendations on ways to explain transportation risk more effectively (Helvey, Power, Niles)
8. Develop positive key messages (Niles, Paull and others TBD).

DOE Transportation Protocols Topic Group Summary:
(Contact: Mona Williams, 505-845-5405)

Participants included: Mona Williams, DOE/National Transportation Program (NTP); Alex Thrower, Urban Energy & Transportation Corporation (UETC); Robert Fronczak, Association of American Railroads (AAR); Richard Swedberg, DOT/Federal Motor Carrier Safety Administration (FMCSA); Kevin Blackwell, DOT/Federal Railroad Administration (FRA); Audrey Eidelman, Energy Communities Alliance (ECA); Ken Niles, Oregon Office of Energy/Western Interstate Energy Board (WIEB); Lisa Sattler, Council of State Governments-Midwest Office (CSG-MW); Robert Alcock, DOE/Office of Environmental Management (EM); Jim Carlson, DOE/Office of Civilian Radioactive Waste Management; Dennis Bechtel, Environmental Management Advisory Board (EMAB) Transportation Committee; Rex Massey, Lander/Churchill Counties (NV); Ray English, DOE/Nuclear Naval Propulsion Program; Elmer Naples, DOE/Nuclear Naval Propulsion Program; Sandra Threatt, South Carolina Department of Health and Environmental Control; Bill Mackie, New Mexico Radioactive Waste Task Force; Ron Ross, EMAB Transportation Committee/Western Governors' Association (WGA); Phillip Paull, Council of State Governments-Northeastern Conference (CSG-NE); Michael Conroy, MACTEC, Inc. (writing group support); Carl Guidice, DOE/EM; Carol Hanlon, DOE/Office of Security and Emergency Operations (SO); and Albert Dietz, DOE/SO.

Ms. Williams began the meeting by welcoming the participants and briefly outlining the activities planned for that day. She indicated the sheet had been sent to participants describing the status of the protocols and said the listing would serve as the group's agenda. She noted this meeting represents a full year's effort by the group to help DOE develop its protocols, and thanked participants for their work in this area. She noted draft materials had been distributed electronically in advance of the meeting for participants to review; discussion then focused on specific protocols. Ms. Williams added written and verbal comments on specific protocols had been collected by the DOE writing group and were reflected in the comment response documents that were sent out; she said the group would not go through the matrices comment by comment, however.

Shipment Prenotification

Ms. Williams noted the main change in this protocol had been under the spent fuel and high-level waste section; here, language had been added to state DOE intended to notify state and tribal officials so they are informed at least seven days in advance of the shipment taking place. Mr. Niles noted other high-level shipments like cesium capsules may not be included in this section. Mr. Guidice responded the writing group has an ongoing assignment to capture all significant commodity flows that are expected; and some of this information is not complete in some cases. During the final "polishing" of these drafts, he said, DOE hopes to address all significant material types. Ms. Williams asked whether all the final protocols would reflect this effort. Mr. Guidice responded the major material types for cleanup were guiding development for all the protocols and the final protocols would reflect the change. Mr. Naples asked whether the entire package of

final drafts would be available for review in time for the next TEC/WG meeting, and Mr. Guidice responded they would be. He cautioned the development schedule was an ambitious one, however. Ms. Williams stated current plans were to have all drafts to the topic group for review by April, and the July meeting would focus on examining all the protocols together as a total package.

One commenter noted “radioactive shipments” in the introduction, line 2, should read “radioactive materials.” Ms. Williams referred to the key issues discussion portion of the draft and noted the comment all transuranic (TRU) waste shipments should be treated like WIPP shipments had been made for all the protocols. Participants agreed and emphasized their desire to see all TRU waste shipments treated equally, not to have shipments to WIPP handled in one manner and intersite shipments another. Ms. Williams replied DOE understood the comments, but noted several different programs had ownership of the waste at various locations and a Department-wide policy decision had not been made at this time. She stated DOE hoped to have this issue resolved by the time of the next meeting in July 2000. Ms. Sattler asked whether this issue was being given appropriate priority by the Department, given the potential for imminent shipments of this type. Ms. Williams replied the Carlsbad Area Office owns the national TRU program, but cannot make policy on its own because other programs are affected too. Mr. Ross suggested this protocol (and all the others affecting TRU waste shipments) at least contain a statement that even if the WIPP protocols are not followed, there will be a dialogue with affected stakeholders as the WIPP program has done. This would be better than simply stating “TBD” under other TRU shipments, he said.

After some discussion, participants commented dual-placarded shipments where one is a radioactive placard should have prenotification procedures as well. Discussion focused on some comments submitted asking for notification in advance of the seven-day requirement in the regulations. Mr. Ross asked why the proposed new language stated states would be “informed” rather than “notified;” Mr. English responded “informed” was used because “notified” is tied in the regulations to the specific seven-day notice, not any notice DOE may try to give before that time. Discussion then ensued about potential problems with states and appropriate state offices actually receiving notice too late to effectively prepare, even though the notifications were sent as the regulations required. Dennis Claussen (DOE/Richland) noted such had been the case with a shipment of spent fuel, when notifications had been properly sent but not recognized by the state.

Another participant asked what was being done to resolve the issue of whether electronic or other non-mail communications could be effectively used. Mr. Swedberg noted there are safeguards concerns about advance notifications, and this would likely complicate notification procedures using email. Ms. Williams noted this issue had arisen in previous sessions, and asked Mr. Alcock to follow up with his contacts at NRC to determine whether email could be used. Ms Sattler asked whether it would be feasible for DOE to either commit the appropriate agency will actually receive notification within seven days, or DOE will follow a ten-plus day policy for sending such information. She noted the requirements call for “at least” seven days’ notice, therefore a DOE policy requiring ten days’ notice would be consistent with the regulations. Ms. Williams responded DOE’s

General Counsel has had objections about committing to notifications beyond that required in the regulations, that confusion about which notices should come out and when might hamper DOE's ability to follow its requirements. She said DOE recognizes the issue, however, and agreed to take this issue back to the writing group. Ms. Sattler stated DOE policy went beyond requirements in several areas, notably notification of tribes, and objections in this area might not be consistent with policy determinations in other areas.

Ms. Williams also asked Stephanie Martz of the Nuclear Regulatory Commission (NRC) if she had any comments on the notification issue. Ms. Martz replied NRC has had an Advance Notice of Proposed Rulemaking out for comment for some time that asked for input on how NRC ought to provide notifications for tribes; any comment on how this might be done, particularly with regard to the means of communication, would be very much appreciated.

Projected Shipment Planning Information

Ms. Williams indicated the main changes to this draft were the addition of "high-volume shipments" of low-level waste and mixed low-level waste (LLW and MLLW), and the use by DOE programs of the Prospective Shipments Module (PSM) for providing projected shipment planning information after the applicable NEPA process is completed. She then handed out copies of the latest PSM prototype for participants' further information.

Mr. Niles stated his objection to the protocol's use of the word "may" in stating how DOE programs are to provide information under the PSM. NTP ought to be able to issue in DOE Orders or other guidance that programs "will" or "shall" provide such information to the PSM. Mr. Niles added if participation in the PSM was voluntary, there would always be the question of "What is missing?" Ms. Williams noted the comment, and stated DOE is trying not to be overly prescriptive in its development of the protocols, which has essentially been a consensus process. Other programs may wish to communicate such information by other means, she said. Discussion then focused on the key issues that had been developed from past comments.

Ms. Williams noted the first key issue was stakeholders had requested a three-year forecast for prospective shipments information. She added given planning and scheduling uncertainties within DOE, this was going to be a real problem for the Department and would continue to be. DOE will continue to work with its stakeholders to provide them the information they need and with sufficient lead time to effectively plan for shipments.

She noted having scheduled updates for advance information had generated a lot of discussion, and indicated the prototype PSM had been handed out. She noted this version was a one-year forecast, and would be updated quarterly.

Mr. Niles suggested in this protocol, as with others, DOE should try to avoid using statements like "to be determined" or "on a case-by-case basis," or the whole point of bringing greater consistency could be lost. If the PSM is to be updated on a quarterly

basis, he said, then the protocol should say so, preferably using a quarterly update as a minimum. Mr. Guidice noted the importance of doing so, but added there were many different materials and programs involved, and defining a one-size-fits-all approach will be very difficult. Mr. English added as a member of the writing group, he and his colleagues have been working more on defining a process for how DOE will conduct its activities and work with its stakeholders, rather than developing checklists or other prescriptive criteria.

Specific discussions next focused on the draft PSM itself. Ms. Williams noted in response to comments on earlier versions, DOE had added a point-of-contact for further information regarding each shipping campaign. In the listing, the mode is assumed to be by truck unless rail is stated. Barge and air shipments are not included, she said. More information was requested on destination points, she said, and also on specific routes to be used. DOE is not planning on specifying planned routes in the PSM, she said; instead, a listing of states through which shipments are likely has been developed.

Ms. Sattler asked how the different campaigns had been ordered in the PSM, and whether campaigns could be ordered according to commodity, frequency, numbers of shipments or other factors. Ms. Williams replied she would find out and provide that information to the group. Mr. Ross asked whether the campaigns could be ordered by quarter to indicate what activity is likely during a given three-month period. Ms. Williams responded earlier versions had attempted to provide such information, but given scheduling uncertainties it may not be possible to get as specific at the current time. Mr. Bechtel asked whether the prototype included all shipments being contemplated for the coming year; Ms. Williams responded some shipments such as those of LLW to the Nevada Test Site are beginning to show up but not all LLW shipment are required to be included.

Considerable discussion focused on how the writing group and DOE was defining “high-volume shipments” of LLW and MLLW, because depending on how the term is defined, a particular campaign may or may not be covered by the projected shipment planning information protocol. Ms. Williams stated the proposed criteria (5 or more truckloads per week for six months or more, or 60 railcars or more a month for six or more months) had been suggested as one way to provide a meaningful demarcation; the intent was to define a reasonable level of activity rather than to capture specific ongoing or planned campaigns. Messrs. Ross and Niles both suggested the “bar” put forward in these criteria may be too high; under these definitions, campaigns with less than 120 truckloads or 360 railcars over the period might fall below the defining criteria, but would almost certainly be campaigns stakeholders would want to know more about. They suggested substantially lowering both numbers and frequencies that define “high-volume” shipments, and Ms. Williams agreed to communicate this to the writing group, particularly lowering the time to three months.

Routing

Ms. Williams noted the routing protocol has been the most difficult one to develop because of its importance and impact on the other protocols. She briefly reviewed the comments resulting from the last meeting in Philadelphia and stated the current draft attempted to reflect those comments in a manner that was both responsive to stakeholders' concerns and practical from the standpoint of implementation by programs. She reiterated the routing protocol was not intended to supplant any agreements that may have already been made between DOE and other entities regarding routing; moreover, the protocol is intended to establish a process, not a prescriptive approach. Final modifications to this protocol may be needed when all the protocols are finalized, or when its practical application in the future indicates changes may be needed.

Mr. Ross noted there was no discussion about seagoing routing of vessels; Ms. Williams responded such was the case because seagoing shipments would be handled according to their individual circumstances and requirements. Mr. Ross asked whether the word "appropriate" could be replaced with "preferred" in the discussion about routing for highway shipments; Mr. Swedberg noted "preferred" was the regulatory term used for highway route controlled quantity shipments of radioactive material which would most likely include highway shipments of spent nuclear fuel (49 CFR 397), and Mr. Conroy added "appropriate" was chosen precisely to include all shipments covered by the protocol, not just spent fuel or high-level waste. One commenter noted the reference to the routing program INTERLINE should be taken out of the highway routing section as that program identifies routes for rail.

Considerable discussion focused on Nuclear Waste Policy Act (NWPA) shipments to be managed by the RW program. Several commenters expressed their dissatisfaction about language they saw as delegating responsibility for routing decisions to a private contractor. Mr. Carlson noted the draft Request for Proposals under which such contracting was being contemplated would in essence direct the contractor to run the routing codes, while DOE would work together with states, tribes and local governments to determine the appropriate routes; given this language, he said, it is difficult to see what specific provisions the commenters found objectionable. He agreed to provide the salient portions of the draft RFP to participants. Commenters suggested the protocol ought to state ultimate responsibility for routing will remain with DOE, and DOE will commit to a process of working with affected parties to identify routes that will be used.

Under the WIPP routing section, one commenter suggested the statement about states and tribes being able to designate routes should also be explicitly mentioned in the spent fuel section. Other TRU-related comments mainly focused on the issue of intersite TRU shipments being treated like WIPP shipments that had taken place in earlier protocols discussions (see above).

Most of the remaining discussion focused on routing for LLW and MLLW. Mr. Swedberg noted the routing language basically parroted that in the routing regulations (49 CFR 397), except it omitted the words "for which placarding is required." He asked what practical difference this would make; he opined most LSA shipments would be placarded anyway, if transported as exclusive use LSA. Mr. Ross suggested one point of the

protocol should be to look beyond the basic regulatory requirements; other guidance has been developed that could also help determine how DOE plans its shipments. He specifically indicated guidance promulgated by the FMCSA for non-radioactive hazardous materials shipments was designed to help prevent incidents, and he suggested DOE examine this guidance for potential improvements to the protocol.¹ Mr. Ross added the protocol should also recognize the “funneling” effect that takes place when shipments from different sites are sent to a limited number of disposal sites, usually in the West.

Mr. Bechtel stated he liked seeing the new language added under the LLW/MLLW section; it clarifies what carriers should do. However, given the large numbers of shipments of LLW/MLLW that are planned, DOE has to remain proactive and not simply hand off responsibilities to a carrier. The Department has been improving its record of trying to be sensitive to state, tribal and local concerns, he said; a contractor might try to avoid such interactions. For specific campaigns, a LLW routing plan should serve as a basis for dialogue, he said. Finally, Mr. Bechtel noted while there is ample discussion about what carriers ought to do and when, there is no clear indication how DOE plans to make sure such procedures are implemented. This needs to be clearly spelled out for all the protocols, he said. Other participants agreed.

Mr. Paull outlined one concern his constituents (northeastern states) have had with regard to the LLW/MLLW issue. If DOE and its stakeholders continue to focus on LLW shipments and extra-regulatory requirements similar to those for spent fuel, he said, then the emphasis may be lost where it is most needed—on shipments of spent fuel and high-level waste. Opponents of spent fuel transportation might also use such discussions as a basis to assert preparations for spent fuel transport are not adequate, he said, and the northeastern states do not share that view. Ms. Sattler agreed while LLW shipments are important, the Midwestern states are most concerned with spent fuel shipments. Mr. Ross noted the concerns, but observed LLW shipments are moving now, in large numbers, through the western states and right now those shipments have priority in that region. Mr. Paull reiterated his states would oppose a “ratcheting up” of requirements for high-level waste shipments, and in any case the protocols should not exhaustively outline what participants are going to do in every possible circumstance.

Ms. Williams asked participants if the volumes of LLW being shipped should have a bearing on their routing; i.e., whether higher-frequency shipments would dictate a different route. Several participants agreed it could, depending on the circumstances. Others suggested routing for this category of material would be difficult enough without breaking it down further into subclassifications based on numbers and frequency; the overall goal should be to improve safety. Ms. Dixon noted in her experience as a local official, if even one truck with placards is spotted along a route it becomes news, so some kind of designations may be needed no matter how few the shipments are to avoid undue surprise.

¹ The document, Hazardous Materials Incident Prevention Manual: Routing and Scheduling Policy, was promulgated by FMCSA and can be found at www.fmcsa.dot.gov/factsfigs/accidenthm/policy.htm

One participant noted references to the IAEA should be added to the ICAO citation in the last paragraph of the LLW/MLLW Routing section and since the introduction paragraph states routing of air shipments is not addressed in this document, the sentence referencing the applicable regulations that would be used for air shipments be removed for consistency purposes.

Under the rail routing section, one commenter asked whether the use of the term “higher-grade track” should be replaced with “higher-class track.” Mr. Fronczak noted both terms might be superfluous because of the definition of “key routes” in AAR Circular OT-55-B, which will soon be updated. He suggested modifying Paragraph III.A.1. a.(3) as follows: “use of ‘key routes’ as defined in Association of American Railroads Circular OT-55.” Another commenter noted the reference to the HIGHWAY code should be eliminated from this section, and the references to the NWPA RFP should be consistent with the discussion about highway shipments for the same material stream (see above).

Participants next discussed the issue of rail shipments for TRU waste, referencing the comments already made on these materials in the other protocols (see above). Ms. Williams noted DOE/CAO was examining the Rail Companion to the WIPP Program Implementation Guide the TEC/WG Rail Topic Group had developed to determine what might occur if intersite shipments of TRU waste were done via rail. Stanley Paytiamo of the Acoma Pueblo noted if rail shipments to WIPP were being contemplated, that could have a significant impact on his pueblo’s emergency and environmental planning.

Ms. Williams asked written comments on the routing protocol be sent to DOE by March 10 so the final draft can be developed. There being no further comments on the routing protocol, the group then adjourned for lunch and reconvened at approximately 1:00 p.m.

Emergency Notification

Ms. Williams noted this was the first time the group had seen either the emergency notification or the emergency response protocols; she asked written comments on either be submitted to DOE by March 10 so the writing group can incorporate them into the next iteration.

Ms. Eidelman mentioned there were several issues in this protocol and the one covering emergency response that were of concern to ECA communities. No mention is made in either protocol about notification or response from the standpoint of local governments, which is a matter of some concern since local governments would be expected to be the first responders on scene and typically would have incident command. The protocols need to spell out how local governments would be involved and what their roles are, she said. Ms. Hanlon stated there were several issues the writing group had considered in developing the draft. It might be impractical to attempt to provide emergency notifications to local governments along an entire route; this raises related issues about what communities would do with the information and whether this kind of notification is a federal responsibility or one better exercised by the states. As a practical matter, Ms. Hanlon agreed the first responders would most likely be local officials, such as a law

enforcement officer on the scene; if that happened then notifications would proceed through that jurisdiction's chain of command as it would for any emergency. Ms. Eidelman reiterated ECA's position that regarding incidents involving DOE materials, it is DOE's responsibility to notify local governments. Mr. Ross suggested the protocol should add clarifying language to show how local governments would be involved in the event of an emergency. Ms. Threatt added notifications for jurisdictions along a route where an event happens would be a sizeable task for her state, which has 46 counties along potential routes; she opined it would be extremely difficult for DOE to do that on its own even if it were appropriate. Ms. Williams stated the next iteration of both protocols would have language added to it to reflect this concern.

Mr. Fronczak asked how the criteria for identifying situations were compiled; they should mirror the applicable regulations, he said. Ms. Hanlon replied the criteria were derived from several documents, including internal DOE Orders governing emergency response. It should be noted, she added, the protocol spells out what DOE is going to do in a given situation; carriers have their own requirements to follow in regulations. Several commenters raised questions about listed "triggering" events that might raise some confusion if misinterpreted, such as "major" injuries or routes being closed "for one hour or more." As a practical matter, they said, any injuries may be of interest to affected jurisdictions, and road closures by their nature never last less than one hour; in any event, DOE should not wait for a closure to exceed an hour before making calls. The protocol should generally provide when circumstances are unclear, the notifications should be made, they said. Mr. English noted the "Application of Criteria" section was intended to state how DOE will make such determinations; participants suggested the language be clarified to more clearly state this.

Mr. Niles indicated one element that was not addressed in the protocol was whether there would be any time requirements by which DOE would have to make notifications. For certain types of incidents, such as nuclear power plant incidents, there are requirements that specific notifications must be made within 15 or 30 minutes, depending on the severity of the incident. Mr. Niles said he wasn't ready to suggest a specific time limit, but at the very least wanted language included that would prompt notifications to begin as soon as possible. After some discussion, it was agreed the writing group would review the need for some requirement or delineation of time by which DOE should make such notifications.

Mr. Niles asked whether adjacent states or tribes would be notified in the event of an emergency. Ms. Hanlon responded the section describing RCO activities could be changed to explicitly state this as an example of other notifications that could be made. Under the descriptions of types of information to be provided, participants suggested it be made clear information should be exchanged as it becomes available; put another way, DOE should not wait for every piece of information to be complete before letting people know something is going on. Finally, said commenters, the listing should also include what response activities are currently underway. In the final section entitled "Non-Emergency Events," DOE should provide examples of what such events might include, like out-of-service events or civil protests.

Emergency Response

For the emergency response protocol, Ms. Eidelman reiterated the concerns raised in the emergency notification protocol discussion (see above). One commenter asked whether barge shipments were addressed in this protocol; Mr. Guidice replied language regarding barge shipments would be added in the final “polishing” stage. Ms. Sattler added her group may have extensive comments based on the emergency notification protocol’s definition of incidents. She also suggested the extensive discussion of WIPP CMR procedures might be more appropriately placed in a footnote or other reference, as it states only one procedure for one program. Ms. Threatt asked whether the Incident Command System (ICS) was used extensively by tribes, and what differences in this protocol might result if they do not. Participants noted this protocol was the only one developed that goes beyond stating what DOE would do and describes activities of other jurisdictions. If those activities are not clearly defined, said Ms. Threatt, there could be problems later on.

Ms. Sattler also suggested the different sections be checked for consistent use of verb tense. Mr. Niles noted a public information protocol template had been developed by the Communications Topic Group; Ms. Hanlon responded the writing group will examine the template and the draft public information protocol will reflect it.

Concluding Discussions

Following discussions on the specific protocols above, a participant asked what process DOE was planning to use to implement the protocols after they are finalized. Mr. Guidice said three options were being considered: (1) implementing the protocols through the existing DOE Order process; (2) issuing a Secretarial policy or letter, which would be faster and less rigorous from an implementation standpoint (easier to implement); or (3) developing an acquisition letter requiring procurement officials to incorporate the requirements into contracts. By the next Senior Executive Transportation Forum meeting, said Mr. Guidice, DOE hopes to have a recommended approach. Messrs. Niles and Paull complimented the writing group on the solid work they have accomplished on the protocols thus far.

One participant asked if comments on protocols submitted in the first and second rounds of review could be differentiated somehow to show the order of submittal. Ms. Williams agreed future versions of the comment matrices would show this. Mr. Fronczak asked all the protocols be scanned to replace “driver” with “crew” in referring to rail shipments, as trains do not have “drivers.”

Ms. Williams noted the group would soon be receiving a number of new drafts, including protocols on inspection, recovery and cleanup, emergency planning, public information, security and transportation planning. The writing group is currently working on four drafts for which comments have been submitted, and for which second drafts should soon be available: transportation operational contingencies, safe parking, carrier/driver

requirements and tracking. The tentative schedule is for DOE to deliver first drafts to the topic group members by April 2000, with an eye toward having all the drafts essentially complete by the next TEC/WG meeting in July 2000. Mr. Naples noted how productive the face-to-face session had been, and suggested DOE consider scheduling another such meeting before the July meeting if the production schedule is met. Several participants agreed. Ms. Williams noted the suggestions and said DOE would look into the feasibility of doing so. At the very least, she said, the group should plan for a conference call in the April timeframe.

There being no further comments, the session adjourned at approximately 3:30 p.m. Mr. Mackie presented several slides at the topic group wrap-up session the following morning; they are attached as Appendix B.

DOE Transportation Protocols Topic Group Action Items:

1. Comments on the routing, emergency notification and emergency response protocols should be provided to DOE (Mona Williams) by March 10.
2. Ms. Williams will explore the potential for holding another face-to-face meeting in the May timeframe.
3. Ms. Williams will determine whether the PSM can group campaigns by frequency, numbers, or commodities and will report back to the group.
4. Mr. Alcock will coordinate with NRC the issue of using electronic notification of jurisdictions needing advance information and will report back to the topic group.
5. Mr. Carlson will obtain language from the RW RFP related to routing and provide it to the topic group.
6. Future versions of protocols will be provided in .pdf format to ensure consistency in formatting and numbering.
7. DOE will provide the above-specified drafts to the group for initial review in April.
8. Mr. Dietz will examine whether tribes use the ICS system and will report back to the topic group.

Training/Medical Training Topic Group Summary:
(Contact: Ella McNeil, 301-903-7284)

Key points resulting from the topic group meeting included:

1. Slow down scrolling of tabletop exercise on MERRTT CD;
2. Keep a running comment sheet from MERRTT trainers;
3. A high potential for contamination exists when responding to a radiological emergency;
4. Local ambulance policies are geared for protection of responders and ambulance;
5. Important for states to work with regional TEPP Coordinator to coordinate and control distribution of MERRTT materials; and
6. Group asked to go through all modules first then the exercise to get the totality of the product's approach.

The following is a more detailed summary of the group's discussions.

On February 15, discussion focused on the new MERRTT CDs, which now include tabletop and practical exercises, and were distributed to attendees. Updates to the training were covered module by module. A walk-through of the tabletop was also provided, inspiring the following comments: students are expected to bring their own copies of the NAERG and any other reference materials with which they would normally respond to an incident; participants would like to see the speed of scrolling in the exercise portion of the CD slowed down; victim care is paramount in incident response and that is stressed in the training; the training topic group owns the MERRTT training, it is not DOE training; the contamination referred to in the exercise applies only to the Type A scenario used in the exercise (here it was again suggested that either the training zoom in on the Type A packaging or the scrolling be slowed); training developers want the students participating in the exercise to believe the packaging has been breached until proven otherwise; this training is intended for the awareness level; developers want to get the training out in the user community, get feedback and THEN make all the modifications to the CD at once; a running comment sheet for use by instructors was recommended; the flashing screens utilized in portions of the training are distracting; this training material is non-copyrighted material because it was developed by the federal government; it is important states work with respective TEPP coordinators to control distribution of this training material; it was suggested users look at all the modules first, then the tabletop exercise so the product can be reviewed and commented on in its totality; the National Fire Protection Association is setting a minimum responder competency standard and this training will be evaluated against that.

On February 16, Anna Bachicha, DOE Region 4 TEPP Coordinator, addressed the group. She stated training must come from the top down. In regard to getting the word out about training, she said the Albuquerque Operations Office (AL) has established relationships with state and local responders and governments because the RAP program is located in AL. She announced the February training session in AL, relating DOE/AL first sent out a letter to state and local officials announcing the training, then followed up with phone

calls, and briefed WIPP coordinators on TEPP and MERRTT. The State of NM had 10 people scheduled for training in AL, the Albuquerque Fire Department scheduled 10 attendees, Arizona 20, and tribes in the region planned to send 4 representatives to the February session. Ella McNeil noted this is the first year the field has been funded for TEPP coordination and she will target regions for doing a training needs assessment. It was also suggested the Network News newsletter be used as a vehicle for notifying responders and state, tribal and local governments of available training.

Suggestions from the “Medical Issues and the Role of the Training Topic Group” discussions included: focusing on victims before they arrive at the hospital; radiation worker hazards information be provided; critical patient care versus non-critical (steps to avoid spread of contamination). It was also noted the recent focus on weapons of mass destruction is driving some additional patient care requirements.

The next discussion centered on proposed EMS training topic areas. Proposed topics included protective clothing and patient packaging. None of the publicly available programs reviewed by Ken Keaton and staff provide enough information on these subjects. It was recommended the group consider finding an existing program which provides the required training. DOE should develop a training program for EMS care providers. Also suggested were a color-coded guidebook or sheet for emergency responders; adding a module for EMS on pre-hospital care, and adding a 17th module on RAM response.

It was noted a meeting would be held with DOT and others the following week in Washington, DC, to define a 10-year plan for medical curriculum.

The second morning session opened with a presentation on the Federal Radiological Subcommittee meeting. FEMA will be joining the topic group at the July TEC/WG meeting. Integration of MERRTT training and FEMA training should be considered. The Department of Justice is developing hospital radiological training at Fort McClelland.

Adding decontamination to the training was discussed. DOE staff said it is not the purview of DOE to offer such training. Other training is available and there is no difference in decontamination at a fixed facility incident and a transportation incident. A group member reiterated decontamination training should be part of the total package. Ella McNeil asked for a detailed plan explaining that need to take to DOE management.

It was announced the brochure describing MERRTT should be made available on the web site at www.em.doe.gov/otem. This brochure was developed by Bill Ruting upon request that he develop a white paper to be distributed in TEC/WG only. It was shared with the communications topic group who offered suggestions for improving the brochure.

When a member of the group suggested MERRTT training needs a marketing strategy, DOE replied marketing is outside the scope of the training topic group.

Existing methods for getting out TEPP program information include a TEPP booth at National and local meetings, information on planning and training tools, an Emergency Response fact sheet and the packaging and shipping information wheel, and the OTEM web site. Suggestions for expanding TEPP awareness include having an article in the Network News on TEPP, discussions at DOE HQ on marketing strategy and planning, and CEUs for course material.

A brief presentation was given on WIPP medical training. A WIPP incident would involve plutonium, an emotional issue. It is important to get the patient to the hospital without contaminating the world. Once responders and emergency room personnel are trained, that knowledge base must be maintained. Often radiation victims are brought into an ER and the staff doesn't find out until hours later the victim could have been contaminated with radioactive materials. ER staff need radiation counseling so they understand what radiation is and what it can do.

Training Topic Group Action Items:

13. Develop module for pre-hospital EMS (explore FEMA/self-study options);
14. Complete assessment of hospital emergency room radiological training (discuss with FEMA their prior assessment and results);
15. Add EMS checklist developed as TEPP tool to Module 16 (pg. 4, item 2);
16. Do needs assessment for module on contamination reduction, then draft recommendation for July meeting;
17. Place medical examiner/coroner procedures on web site;
18. Add resource section to CD and web site with hot link to web;
19. Add case studies to Planning Tool web site;
20. Add URL for Tools web site to brochure: www.em.doe.gov/otem;
21. Put MERRTT brochure on CD;
22. Write Network News article on TEPP;
23. Have DOE HQ discuss marketing strategy planning for MERRTT; and
24. Offer CEUs for course material.

State/Tribal Consolidated Grant Topic Group Summary:
(Contact: Judith Holm, 505-845-4767)

Participants included: John Allen, Battelle, TRB; James Baranski, State of NY/CSGNE; Denise Brooks, State of TX/ SSEB; Barbara Byron, State of CA/WGA; Jim Daust, CVSA; Robert Holden, NCAI; Judith Holm, DOE-NTP; Dan King, Oneida Nation; Jim Klaus, DOE-CAO; Corinne Macaluso, DOE-OCRWM; Frank Moussa, State of KS/MWCSG; Tracy Mustin, DOE-EM; Ellen Ott, DOE-GC; Tammy Ottmer, State of CO/WGA; Max Power, State of WA/STGWG; Jim Reed, NCSL; Tim Runyon, State of IL/MWCSG; Ralph Smith, DOE-CAO; Lew Steinhoff, DOE-DP; Elgan Usrey, State of TN/SSEB; Chris Wells, SSEB; Heather Westra, Prairie Island Indian Community; Ed Wilds, State of CT/CSGNE; J.R. Wilkinson, Confederated Tribes of the Umatilla Indian Reservation/STGWG. Observers included: Bob Alcock, DOE-EM; Nancy Bennett, UNM-ATR; Robert Bobo, Shoshone-Bannock Tribes; Lloyd Bokman, State of Ohio; Ed Gonzales, consultant; Craig Halverson, State of Idaho; Kent Higgins, Shoshone-Bannock Tribes; Nam Lee, DOE-NTL; Ki Tecumseh, DOE-AL; Diana Yupe, Shoshone-Bannock Tribes. Research/support staff included: Judith Bradbury, PNNL; Mike Butler, UETC.

Introduction and Background

Following introductions, Judith Holm provided an overview of the proposed grant concept and of DOE's objectives for such a grant. She emphasized the preliminary nature of discussions: the Department is looking for substantive input from TEC/WG members and other stakeholders, while continuing internal discussions about the feasibility of the concept as well as administrative structure, roles and responsibilities of the various program offices, and internal funding sources and amounts. She stated also DOE's intent is not to take away from jurisdictions that are currently receiving funds but to raise the level of assistance provided to all states and tribes. The Department's objectives are to:

1. Promote equitable distribution of available funds
2. Increase overall levels of preparedness for DOE shipments
3. Promote efficient administration of available funds
4. Provide funding as one component of an overall program (including training development, planning and technical assistance) that will meet DOE program needs, while also meeting the needs of recipients.

Judith Bradbury identified three areas of research that have helped to structure the development of the transportation grant concept:

- Review of the data and key findings of the series of reports on financial assistance to states and tribes, through the most recent update (1998). These reports show:
 - The amount of funding currently allocated to states and tribes for hazmat activities by federal agencies that may be used to build state and tribal planning and emergency response capabilities

→ Tribal ineligibility for sources of federal funding that provide a large proportion of state funding, e.g., Department of Transportation's (DOT) Motor Carrier Safety Assistance Program and the Federal Emergency Management Agency's (FEMA) consolidated State Cooperative Agreements

→ DOE funding has traditionally been provided to states and tribes that host DOE facilities, rather than to jurisdictions along major transportation corridors

→ As of FY98 (and projected for FY99), federal funding for counter-terrorism measures is

beginning to outweigh DOT and DOE budgets for hazmat preparedness.

- Review and discussion with other (non-DOE) federal agency staff concerning grants provided by other federal programs show:
 - A trend toward consolidation of funding components to allow greater state/tribal flexibility in establishing priorities and addressing needs
 - Greater emphasis on performance
 - Allocation of funding using a formula based on fairness and equity considerations that incorporate population and risk factors.
- Review of stakeholders' comments on DOE-OCRWM's proposed 180(c) program show support for:
 - Dealing directly with tribes
 - Flexibility to allow recipients to identify their own needs
 - Avoiding a matching funds requirement
 - Keeping administrative costs to a minimum
 - Providing a base level, as well as a variable amount of funding.

Discussion of Issues

Summary: Primary issues discussed were: desired outcomes for the grant; allowable activities; issues of concern to the tribes; grant components, including a potential tribal set-aside; and allocation factors, focusing on population and state fees. There was general agreement among group members on desired grant outcomes, allowable activities, and features of current relationships and programs on which a potential grant program should build. Outstanding issues were the process for allocating funds, including use of a formula approach and factors that need to be considered if a formula is used. Tribal concerns and issues were a particular focus of the discussion.

Desired Grant Outcomes: The basic desired outcome on which there was general agreement was summarized as: maximizing public health and safety with limited resources. Other outcomes that were identified were:

- Provision of a base level of funding to build states and tribal infrastructure (where infrastructure is defined as "people assets" such as enhancing planning, response and inspection capabilities rather than physical assets such as roads and bridges).
[One participant reported her State (California) had found it important to first define routes so resources can be focused on the selected routes; another participant from

Tennessee, however, noted in his State, so many routes were used that it is important to ensure an equal amount of preparedness along all routes.]

- Sharing the “load” by relieving individual DOE programs of carrying the entire planning and assistance process (one participant emphasized it was DOE’s responsibility to reach agreement internally on such issues).
- Providing more flexibility for recipients to use funds to meet their needs.
- Avoiding redundancy and duplication.
- Providing consistency and dependability in funding to support state and tribal long term planning needs.
- Maintaining a regional, multi-jurisdictional planning capability and organization.
- Establishing a cooperative relationship in public information and outreach.
- Filling in existing gaps in hazardous waste preparedness.

Allowable Activities: A western representative suggested using the procedures and scope of activities established under WIPP as a beginning framework for identifying baseline allowable activities. Activities could be categorized as follows:

- Accident prevention:
 - Inspection and enforcement using CVSA preventative actions including organizational capabilities for administering an inspection program
 - Transportation planning, including TRANSCOM and notification and internal expenses to maintain such activities, and planning to integrate with state and tribal highway planning
 - Route planning and evaluation
 - Safe parking and bad weather procedures
 - Equipment purchase, maintenance and calibration.
- Emergency preparedness: planning, training, exercises, MOUs, and equipment, and also medical planning, training, exercises, and equipment (the latter were highlighted as being an important component of overall emergency preparedness).
- Other: this category included several, additional items such as escorts, civil disobedience/law enforcement planning and reimbursement costs, costs for document preparation, and regional state and tribal meeting attendance.
- Questions were also raised about other issues:
 - Coverage provided under Price Anderson, specifically, how the Act meets recovery costs and where gaps may exist between the Price Anderson threshold and actual costs. (Judith Holm will follow up on this).
 - The relationship of the proposed grant to the 180(c) funding for training and technical assistance for anticipated commercial shipments and to the WIPP facility. One DOE representative noted that, if carefully designed to abide by legal requirements and honor existing agreements, a consolidated grant should allow the programs to broaden their focus and cover more activities.
 - Whether a consolidated grant would cover preparedness for non-DOE, commercial shipments. (OCRWM has responded to this question in past TEC/WG meetings and indicated this was not possible under the Nuclear Waste Policy Act of

1982 and its amendments. Funding for non-DOE shipments probably would not fall under the responsibility of DOE, but would be an allowable cost under DOT or FEMA grants).

Issues of Particular Concern to Tribes: tribal representatives brought up several issues of particular concern, noting that, while some are also of concern to the states—especially to rural areas—many are magnified for the tribes who frequently are starting from a different level of preparedness:

- Basic issues need to be addressed. The tribes have very limited infrastructure, both physical and human.
- Funding and resources need to be provided for establishing a baseline and conducting a needs assessment.
- The baseline assessment should include an inventory of cultural resources—places and areas of special importance to a tribe along a highway right of way, such as burial sites, waterways, and gathering sites. A related issue is that cleanup on tribal lands has different implications as compared with states: planning, and coordination takes a long time because of the cultural implications.
- Preservation of tribal sovereignty and an appropriate process for consultation are key. There is need for ongoing consultation between tribal leaders and DOE program managers as a parallel process with the work of the topic group. The tribes need to hear DOE responses for themselves.
- Establishing relationships and developing coordination with state and local governments is difficult. Where there are no MOUs with local and state neighbors, tribes have particular problems.
- Information and education is needed not only for tribal members but also for shippers and carriers who may lack awareness of cultural concerns.
- Additional inspection training is needed before tribal inspectors can advance to enhanced inspection procedures. (TEC has addressed this in the past, with CVSA offering participation in the training and inspection program in conjunction with the states.)
- The role of the Indian Health Service as a provider of emergency services should be examined and included in planning and/or training activities eligible for payment under the proposed grant.
- Process and trust questions are important. Tribes who were present emphasized they had good working relationships with their DOE field office representatives and did not want to lose these relationships, by moving to a grant administered by HQ.
- Comments submitted by the Santa Clara Pueblo prior to the discussion indicated two primary concerns related to a proposed transportation grant: consultation on upcoming shipments and whether a tribal decision to participate in the proposed grant process would impact tribal sovereignty and funding amounts (representatives were assured DOE intended to deal directly with each tribe and the term *consolidated* refers to DOE's consolidation of the Department's various funding streams and not to consolidation of tribal grants).

A state participant suggested DOE and the tribes consider provision of a “balloon payment” to raise tribes’ resources, after which a base grant and formula (impact) approach could also be used for equitable distribution of available funds. As with the states, tribes would be free to establish their own priorities for funding, within the parameters of the grant.

Grant Components: Discussion of the three grant components (basic, impact, and discretionary grant) focused on the concept of a formula, the tribal proposed set-aside, and the factors to be considered in developing equitable allocations if a formula is used—population and state fees were particular factors discussed. Views differed on all of these issues.

- There were differing views on the desirability of a formula approach, with a general division between those favoring adaptation of the current WIPP approach of individual negotiation with tribes, and with states through regional groups and those favoring development of uniform, consistent, national-level funding criteria.
 - Some tribal representatives expressed particular concerns about placing tribes in the bureaucratic “box” of a formula grant. For some, the trust relationship between the federal government and an individual tribe means that, regardless of whether a tribe has 10 feet or 10,000 miles of impacted land, there is an obligation to protect the integrity of that tribe. A tribal lawyer who was present questioned the legality of a formula allocation.
 - In contrast, some state representatives commended the formula approach used by nuclear plants in allocating assistance to neighboring jurisdictions: the approach had provided consistency, as well as circumventing undue political influence on the distribution of funds. Others noted while a formula cannot meet all needs and all situations, DOE has a limited budget and cannot meet all needs. Moreover, adaptation of the individual negotiation approach used by WIPP may not be feasible for a national-level program of financial assistance.
- Some tribes expressed concern about the amount identified for a tribal set-aside and strongly advocated a needs assessment prior to reaching a decision on funding levels. It was noted in response that, as with all numbers, the tribal estimates were being used as a starting point for discussion and as tools to illustrate the grant components. DOE intends to address tribal needs and appropriate funding levels in consultation with the tribes.
- Inclusion of population among factors to be considered in developing the impact portion of the grant indicated a division of views, generally along geographic and demographic lines—large jurisdictions in the northeast believed population was a key factor affecting their need for assistance, while rural areas in the west were concerned distance was more important and assigning a high weighting to population would be to their disadvantage. Northeastern states’ reported their concern is based on experience with planning for nuclear power plant evacuation: human safety is the #1 priority and thus concerns are greatest where there is a large population involving possible evacuation and/or closing down an interstate. The increase in people and traffic in urban areas also requires a more complex response and higher training costs for the increased number of fire department personnel. Northeastern members also

noted many people live beyond the proposed ½ mile boundary of each shipping route and DOE would need to examine also what is located within the ½ mile.

- A final area of disagreement concerned state fees, specifically, whether states who assess fees on shippers of hazardous waste through their jurisdictions should also be eligible to receive a DOE grant.
 - Some state representatives argued setting fees is an individual state process and should be considered an internal matter. Fees are usually charged for providing services and, in most cases, the fee does not cover the cost of the service. DOE is not the primary target of fees, which are assessed to cover hazmat costs. The theory is the user of the service should pay.
 - A WIPP representative noted this was a philosophical issue of disagreement and that, since WIPP payments cover states' up-front costs, it is inequitable to expect DOE and the tax payer to pay twice. Moreover, to date, tribes have no fee programs in place. In his view, if the goal is to keep shipping routes prepared for safe transportation, it is better to provide funding in an agreement that identifies specific activities to be performed.

Consolidated Grant Topic Group Action Items:

In general, participants agreed on the need to maintain the dialogue between DOE and TEC/WG members on issues to be worked through before completion of a white paper for the Senior Executive Transportation Forum. The key question to be answered is whether this is the mechanism to achieve the outcomes DOE and states and tribes want. (This question is also being considered internally by DOE.)

The following actions items and issues for further discussion were noted:

5. All participants will go back to their various constituencies to discuss the issues raised in discussions to date
6. Judith Holm will obtain answers on questions related to the Price Anderson Act and to the issues raised by the Santa Clara Pueblo
7. Further discussion will be conducted on issues raised, with a view to reaching some accommodation of concerns
8. A numbering system will be introduced for all research and discussions papers related to the grant that are available on the web.

Tribal Issues Topic Group Summary:
(Contact: Judith Holm, 505-845-4767)

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Issues discussed during this meeting included: tribal concerns of the Santa Clara Pueblo (discussed in a separate meeting on February 15), status of the topic group task plan, status of ceded lands in relation to transportation issues, DOE Indian Policy, Tribal/State Summit on Transportation Issues held in Santa Fe in the fall, NRC ANPR on prenotification, DOT Tribal Policy Order, DOT letter on right of tribes to inspect shipments, and future activities of the tribal issues topic group.

On February 15, 2000, Santa Clara representatives were called back to the Pueblo and were unable to attend the February 16 topic group meeting. At that time, a special meeting with representatives of the Santa Clara Pueblo, other tribal representatives, and DOE staff was held, at which a memo expressing tribal concerns was distributed and discussed. The following issues were identified and will be addressed in a followup memo from DOE:

- Transportation issues in regards to radioactive waste (RAW) materials going into national DOE facilities. Example: liquid nitrogen going up to LANL. (Kevin Blackwell offered to check with the protocols group on emergency response issues.)
- Concerns of automobile usage of highways through reservation lands and impacting ambient air quality. Example: DOE, LANL and contract staff members utilizing State Road 30 as a passage to LANL. (It was noted during discussion that rush hour is of prime concern. Ed Gonzales informed the gathering the New Mexico State Highway and Transportation Department has been asked to do an analysis. The State, two Tribes and DOE will participate in a group discussion of this issue.)
- If tribes go in with the consolidated group will it impact the funding amounts and sovereignty of each tribe?
- What are consequences if a tribe does not go in with the consolidated group?
- If incident does occur on reservation lands what will be the clean up levels and who will set them? (Discussions revealed a further concern over whether or not DOE will support a non-detectable limit in such a circumstance. The group also questioned

what standards exist for cleanup. If there are none, should the tribal issues topic group push for such standards? The question was also raised about the difference between federal, municipal, and tribal cleanup standards and the importance of maintaining tribal sovereignty in setting standards.

Other issues and concerns raised during this session included establishment of environmental baselines; whether or not OSHA training applies to tribes; memoranda of agreement in existence between tribes and DOE; and remaining questions about the relationship of 180(c) and the consolidated grant program. The group also had questions about hazmat response training. Does it certify pueblo people to respond? Is a MOA forthcoming on compensation for injury of tribal responders? Attendees suggested consideration of the development of a fact sheet answering 50 top DOE/tribal-related questions and the possibility of a tribal Q&A booklet.

The scheduled tribal issues topic group meeting took place on February 16. Following introduction, the group reviewed the task plan action items. Next on the agenda was a discussion of ceded lands in relationship to transportation issues. Group members pointed out interpretation of treaty rights is a very complex area and should not be brought into the discussion of ceded lands. Follow-up discussions included where ceded lands fit into the consolidated grant program concept and cleanup issues. All tribes must be treated separately. Any research done into the ceded lands issue should be used as a basis for consultation with individual tribes. It was decided the group needs a short description of ceded lands, treaty lands, aboriginal lands, etc.

An update was presented on DOE's revised Indian Policy. The third draft is under construction and calls for a true definition of protocols between federal and tribal governments. Remaining considerations include implementation oversight and accountability on the part of DOE, and what sanctions can/will be placed on managers not in compliance. The final policy is expected to be out in late spring.

James Kozak, New Mexico State Highway and Transportation Department, gave a presentation on the fall 1999 Tribal/State Summit on Transportation issues held in Santa Fe, NM. The meeting served as a framework for development of meaningful policy between the State and Tribal governments. Tribal participation has been expanded to include all 19 pueblos and is an integral part of the long range planning process. At the summit, five topic areas were developed into six draft agreements. One agreement was signed in Santa Fe and others are under review by individual tribal councils. A final report of the proceedings has been issued and was made available at the tribal issues topic group.

Stephanie Martz, NRC, distributed copies of the Advanced Notice of Proposed Rulemaking on Tribal Prenotification. She stressed the importance of letting NRC know how critical this issue is by responding to the ANPR. The comment period ends March 22. The group acknowledged the need for a meeting between NRC and tribes on this issue.

Next, DOT's Tribal Policy Order was distributed to the group. The Order was written internally to serve as DOT guidance for dealing with tribal nations on a government-to-government basis. It is considered a living document and comments will be considered. The DOT letter to DOE on the authority of tribes to inspect shipments is still in the concurrence channel at DOT. Once signed the letter will be sent to DOE, who will be responsible for disseminating it further. Kevin Blackwell made the commodity flow point-of-contact list available to meeting participants.

At meeting's end it was decided more time needs to be allocated to the tribal topic group session at the summer TEC/WG. Group members will continue to be involved in the consolidated grant topic group, protocols group and others.

The following items were made available in Las Vegas. Please contact Wilda Portner if you are interested in receiving a copy:

- DOT Order 5301.1: Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes
- United States Hazardous Materials – 1997 Economic Census: Transportation/1997 Commodity Flow Survey
- Guidance for Conducting Hazardous Materials Flow Surveys (DOT, January 1995)

The next conference call will be scheduled for April 2000. A call-in number will be forwarded with the preliminary agenda. If you would like to recommend agenda items, please contact Judith Holm at 505-845-4767 (email: jholm@doeal.gov) or Wilda Portner at 505-842-7818 (email: wilda.e.portner@cpmx.saic.com).

Tribal Issues Topic Group Action Items:

<u>Responsible Party</u>	<u>Action to be Taken</u>
Judith Holm	Provide written response to Santa Clara Pueblo memo of February 15 on tribal concerns.
Kevin Blackwell	Check with the protocols topic group on emergency response issues related to the tribal concerns set out in the February 15 memo from the Pueblo.
Martha Crosland	Explore the idea of putting Tribal Frequently Asked Questions on the EM Web site (in response to issues raised by Santa Clara Pueblo).
J. R. Wilkinson	Provide the topic group with a short definition of ceded lands.
All	Provide NRC with comments on ANPR on Advanced Notification by March 22, 2000.
Wilda Portner	Copy and distribute DOT "Guidance for Conducting Hazardous Materials Flow Surveys" and "United States Hazardous Materials 1997 Economic Census: Transportation 1997 Commodity Flow Survey" document

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